

Motion granted only to the extent that the Clerk is directed to send another copy of the July 28, 2011 (Docket # 37) Order to the Petitioner shall have 14 days (plus 3 days) from the date of the July 28, 2011 (Docket # 37) Order for a total of 17 days (plus 3 days) to file a motion to recuse. (Fed R.Civ.P. 6(d))

Deemed letter motion. To send another copy of this memo-entitled Order to the Petitioner along with the Clerk on August 5, 2011 (Docket # 40) to further requests for extensions may be made to Judge Daniels.

BY US MAIL

United States District Court
Southern District of New York
Hon. Lisa Margaret Smith
United States Magistrate Judge
300 Quarropas Street
White Plains, New York 10601

R.E. Donald Roth v. United States, 09 Cv.

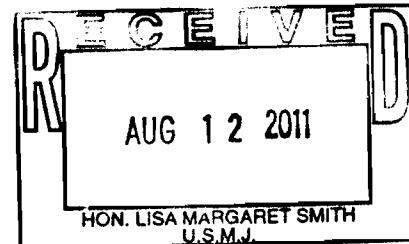
8712 (GBD/LMS), 02 Cr. 1503 (CM/LMS)

Dear Judge Smith,

I write in regard to the Court's Order entered July 28, 2011 denying my June 23, 2011 Motion to Recuse. The Pro Se Clerk of Court told me by telephone on July 29, August 2 and August 5, 2011 that Your Honor mailed a copy of said order to me from Chambers on July 29, 2011 (see docket sheet).

The Federal Bureau of Prisons employs a "legal-special mail" system in which inmates are required to sign a log-book prior to being provided mailings such as the July 29, 2011 order from a U.S. Dist. Court Magistrate Judge. I never got a copy of the order and if you check with FMC Rochester's mail-room you will not find my signature relating to receiving this order as of August 5, 2011 at 5pm (cst).

F. R. Civ. P. 72 requires me to file any objections to this order with Judge Daniels within 14 days (plus 3 days, Rule 6(d)) of being served with a copy of the order, i.e. August 14, 2011. However, F. R. Civ. P. 6(b)(1)(A) allows me to request an extension of the time in which to file any objections, without a motion or notice, since this request is being made before the original time expires.



As an exhibit to my June 2011 Motion to Extend Time to answer the Court's forthcoming Report and Recommendation I filed a true and correct copy of a Bureau of Prisons medical document (April 5 and April 6, 2011 Clinical Encounter Administrative Notes) in which the Regional Medical Director Dr. Paul Harvey found that I am suffering from multiple unhealed remote rib fractures which are causing severe pain and difficulty concentrating.

Thus please treat this correspondence as a letter-motion and memo-endorse the following relief.

The Clerk of Court is directed to mail me a copy of the Order. I am granted thirty days from the date the order is mailed in which to file any objections with Judge Daniels pursuant to F. R. Civ. P. 72.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "DR", is written over a horizontal line.

FMC Rochester

Donald Roth, 83933054

P.O. Box 4000

Rochester, MN 55903

cc. Benjamin Allee, AUSA

(by regular mail)